

FILED MAY 21, 2007

REVIEW DEPARTMENT OF THE STATE BAR COURT

In the Matter of) Case No.: **06-C-13800**
)
MARIO A. BAUTISTA) **RECOMMENDATION OF SUMMARY**
) **DISBARMENT**
)
A Member of the State Bar)
_____)

The State Bar's request for a recommendation of summary disbarment, filed on March 7, 2007, is granted. On March 14, 2007, we filed an order to show cause, on or before April 12, 2007, why we should not recommend respondent's summary disbarment to the Supreme Court. Respondent did not file a response.

On July 20, 2006, respondent was convicted of a felony for failing to appear for a felony charge while released on bail. (Pen. Code, § 1320.5.) As a result of respondent's conviction, we placed him on interim suspension effective October 5, 2006, and he has remained on interim suspension since that time. His conviction is now final.

Respondent's conviction provides conclusive evidence that he is guilty of failing to appear for a felony charge while released on bail. (Bus. & Prof. Code, § 6101, subd. (a).) He is conclusively presumed to have committed all of the acts necessary to constitute the offense. (*In re Duggan* (1976) 17 Cal.3d 416, 423.)

Respondent's conviction meets the requirements under Business and Professions Code section 6102, subdivision (c), as amended effective January 1, 1997. First, respondent was convicted of a felony. (Bus. & Prof. Code, § 6102, subd. (b).) Second, an essential element of

Penal Code section 1320.5 is the specific intent to “evade the process of court,” allowing the actor to benefit by obstructing justice. (Cf. *In re Young* (1989) 49 Cal.3d 257, 264 [Pen. Code, § 32, harboring a fugitive, requires a specific intent to impede justice by allowing fugitive to remain at large, and as such, involves moral turpitude per se]; see also *People v. Maestas* (2005) 132 Cal.App.4th 1552, 1556-1557 [the elements of Pen. Code, § 1320.5 involve moral turpitude for the purpose of witness impeachment at criminal proceedings].) Thus, we conclude that the elements of the offense inherently involve moral turpitude for the purpose of attorney discipline.

When an attorney’s conviction meets the requirements of Business and Professions Code section 6102, subdivision (c), “the attorney is not entitled to a State Bar Court hearing to determine whether lesser discipline is called for.” (*In re Pagurigan* (2001) 25 Cal.4th 1, 7.) Disbarment is mandatory. (*Id.* at p. 9; see also *In re Lesansky* (2001) 25 Cal.4th 11.)

We therefore recommend that respondent, Mario A. Bautista, State Bar member number 188173, be summarily disbarred from the practice of law in this state. We also recommend that respondent be ordered to comply with rule 9.20 of the California Rules of Court and to perform the acts specified in paragraphs (a) and (c) of that rule within 30 and 45 days, respectively, after the effective date of the Supreme Court’s order. Finally, we recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7, and as a money judgment.

Presiding Judge